

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Robert SEEMAYER, et al.

Application No.: 10/679,961

Group No.: 1625

Filed: October 6, 2003

Examiner: P. Morris

For: PROCESS FOR THE PREPARATION OF (S,S)-CIS-2-BENZHYDRYL-3-BENZYLAMINOQUINUCLIDINE

RECEIVED

OCT 27 2004

OFFICE OF PETITIONS

Date of mailing "Notice of Allowance and Base  
Issue Fee Due" July 14, 2004  
Confirmation No. 3576

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Attention: Office of Petitions

☒ SPECIAL PROCEDURES SUBMISSION

NOTE: Any petition to withdraw an application from issue after payment of the issue fee should be either submitted by facsimile or hand-carried to the Office of Petitions, M.P.E.P., 8<sup>th</sup> Edition.

WARNING: Petitions for express abandonment of patent applications after payment of the issue fee is decided in the Office of the Deputy Commissioner for Patent Examination Policy, M.P.E.P., 8<sup>th</sup> Edition.

**PETITION FOR WITHDRAWAL FROM ISSUE**  
**—ISSUE FEE PAID (37 C.F.R. § 1.313(c))****CERTIFICATION UNDER 37 C.F.R. 1.8(a) and 1.10\***

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I hereby certify that, on the date shown below, this correspondence is being:

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**37 C.F.R. 1.8(a)****37 C.F.R. 1.10\***

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- ☐ transmitted by facsimile to the Patent and Trademark Office, to (703) 872-9306

Date: October 20, 2004

Signature

John Richards

(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

NOTE: "Paragraph (a) of § 1.56 states that the duty to disclose information exists until the application becomes abandoned. The duty to disclose information, however, does not end when an application becomes allowed but extends until a patent is granted on that application. The rules provide for information being considered after a notice of allowance is mailed and before the issue fee is paid (Section 1.97(d)) and for an application to be withdrawn from issue after the issue fee has been paid. An application may be withdrawn from issue because one or more claims are unpatentable. . . or an application may be withdrawn from issue and abandoned so that information may be considered in a continuing application before a patent issues. . ." Notice of January 9, 1992, 1135 O.G. 13-25 at 16.

NOTE: If an application is withdrawn from issue. . . , an information disclosure statement can be submitted in the continuing application under § 1.97(b) without a certification. A continuing application is treated like any other application with regard to the times set forth in § 1.97(b). Thus, for example, an information disclosure statement could be filed without a fee or certification in a continuing application within three months of the filing date of the continuing application. Notice of January 9, 1992, 1135 O.G. 13-25, at 21.

NOTE: "It would not be proper to make final a first Office action in the continuing application if the information submitted is used in a new ground of rejection." Notice of April 20, 1992 (1138 O.G. 37-41, 40).

NOTE: If the petition is made [§ 1.313(c)(1)], that one or more claims are unpatentable, then the Notice of April 20, 1992 (1138 O.G. 37-41) states:

"This statement that one or more claims are unpatentable over the information must be unequivocal. A statement that a serious question as to patentability of a claim has been raised, for example, would not be acceptable to withdraw an application from issue under 37 C.F.R. § 1.313(c)(1)."

NOTE: "The Office will consider [the filing of a petition to permit consideration of an information disclosure statement under § 1.97 in a continuing application]. . . as sufficient grounds to waive the requirement that [a continuing] application . . . be filed before payment of the issue fee." Notice of April 20, 1992 (1138 O.G. 37-41, 40).

### PETITION

1. Applicant hereby petitions for the withdrawal of this application from issue.

### PATENT ISSUE FEE

2. The issue fee for this case was paid on or about October 6, 2004.

(complete the following, if known)

This application is scheduled to

☐ issue on \_\_\_\_\_

☐ as patent \_\_\_\_\_

### REASON(S) FOR WITHDRAWAL REQUEST

3. The reason for withdrawal from issue of this application is for consideration of an information disclosure statement in a continuing application. 37 C.F.R. § 1.313(c).

(a) ☐ unpatentability of a claim

(b) ☒ RCE

(c) ☐ Express Abandonment

## EXPRESS ABANDONMENT

4. ☐ Accompanying this petition is an express abandonment of this application to be effective on the grant of this petition and when the continuing application is granted a filing date so as to make this application copending with the continuing application.

## FILING OF CONTINUING APPLICATION

5. ☐ The continuing application claiming priority under 35 U.S.C. § 120 from this application
- ☐ was filed on \_\_\_\_\_.
- ☐ is being filed on the same date as this petition.
- ☐ These papers accompany this petition.

## 6. PETITION FEES (37 C.F.R. § 1.17(i))

The petition fee set forth in § 1.17(h), required by 37 C.F.R. § 1.313(a) is paid as follows:

- ☒ Attached is a check in the amount of \$ 130.00
- ☐ Authorization is hereby made to charge the amount of \$ 130.00  
to Deposit Account No. 12-0425
- ☒ Charge any additional fees required by this paper or credit any overpayment to deposit account 12-0425.

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**SIGNATURE OF PRACTITIONER**

John Richards, 31053, (212) 708-1915

*(type or print name of practitioner)*

\_\_\_\_\_  
P.O. Address

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c/o Ladas & Parry LLP  
26 West 61<sup>st</sup> Street  
New York, N.Y. 10023